

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, SEPTEMBER 14, 2004

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room 600, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel to discuss existing litigation pursuant to Government Code Section 54956.9; subsection (a) considering the case(s) of: (1) Gross & Holmes v. Redevelopment Agency of the City San José, et al.; (2) Ruff v. City of San José, et al.; (3) Campbell v. City of San José; (3) Horta, LLC v. City of San José; (4) Comcast of California II, L.L.C. v. City of San José; (B) to confer with Legal Counsel to discuss anticipated litigation pursuant to: (1) subsection (b) of Section 54956.9 of the Government Code in one (1) matter of significant exposure; (2) subsection (c) of Section 54956.9 of the Government Code in four (4) matters pertaining to initiation of litigation.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:37 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Mohinder Singh, Sikh Temple recited a prayer for the Invocation, which Bob Gill translated. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Dando, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0).

CEREMONIAL ITEMS

1.1 **Presentation of a proclamation declaring September as Leukemia, Lymphoma and Myeloma Awareness Month in San José. (Mayor)**

Action: Mayor Gonzales presented a proclamation to Delora Wiley of the Leukemia and Lymphoma Society, declaring September 2004 as “Leukemia, Lymphoma and Myeloma Awareness Month” in the City of San José.

1.2 **Presentation of state and national awards for the City’s Street Smarts Public Education Program. (Transportation)**

Action: Mayor Gonzales invited Director of Transportation James Helmer, Mark Spencer, Institute of Transportation Engineers, and Bill Hein, California Transportation Foundation, to the podium. Mayor Gonzales accepted the following awards. Mr. Spencer presented the 2004 Pedestrian Award for Safety; Director Helmer presented the Award of Excellence, in the category of marketing; and Mr. Hein presented the “Tranny” Award, for community awareness. Mayor Gonzales and Director Helmer also recognized the City of San José’s partners, City of San José Police Chief Robert Davis, Merry Banks, Northern California Offices of California State Automobile Association, Gladwyn D’Souza, President of Walk San José, Don Iglesias, Superintendent of San José Unified School District, and Scott Gardner, President, Liquid Agency, Inc.

CONSENT CALENDAR

Upon motion by Vice Mayor Dando, seconded by Council Member Chavez and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0).

2.2 **Final adoption of ordinances:**

- (a) **ORD. NO. 27240 – Amends Section 7.08.595 of Chapter 7.08 of Title 7 of the San José Municipal Code to clarify the limit of dogs and cats is per dwelling unit and to increase the maximum number of dogs and cats allowed per dwelling unit.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27240 executed on September 7, 2004, submitted by the City Clerk.

Public Comment: Ross Signorino recommended that the ordinance should be deferred until there is more information on the impacts to the environment.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27240 was adopted. (11-0). First Reading: (9-1-1) Noes: Dando. Absent: Yeager.

- 2.2 (b) **ORD. NO. 27241** – Adopts a limited amnesty program under which the City will forgive all late licensing fees, delay the implementation of Fiscal Year 2004-2005 increase in fees for licensing unaltered dogs and cats, suspend issuance of citations for violations of Section 7.08.610 of Chapter 7.08 of the San José Municipal Code, and exempt pet owners who license their dog or cat during the amnesty period from Section 7.08.595 of Chapter 7.08 of the San José Municipal Code.

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated September 9, 2004, recommending adoption of amnesty program. (2) Proof of Publication of the title of Ordinance No. 27241 executed on September 7, 2004, submitted by the City Clerk.

Public Comment: William Garbett spoke in opposition to the ordinance because he believes it is a tax that should be approved by the voters.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27241 was adopted. (11-0).
First Reading: (9-1-1) Noes: Dando. Absent: Yeager.

- 2.3 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #3, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: (1) Memorandum from Director of General Services Jose Obregon, dated August 25, 2004, recommending approval of open purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated September 9, 2004, stating concurrence with the Staff recommendation.

Action: Open purchase orders #3 for FY 2004-05, was approved. (11-0).

- 2.4 **Adoption of a resolution accepting \$10,000.00 in donations from the Friends of the San José Public Library for the Summer Reading Celebration. CEQA: Not a Project. (Library)**

Documents Filed: Memorandum from Library Director Jane Light, dated August 25, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72309, entitled: “A Resolution of the Council of the City of San José Accepting \$10,000 in Donations from the Friends of the San José Public Library for the Summer Reading Celebration”, was adopted, with Staff directed to measure the success rate and continue to inform Council of the results and progress. (11-0).

- 2.5 Adoption of a resolution approving a one-time exemption from certain eligibility requirements of the Operating Grant Arts Grant Program for Young Audiences of Northern California (YANC), the legal successor of Young Audiences of San José & Silicon Valley (YASJSV), and directing the City Manager to negotiate and execute a grant agreement with YANC in the amount of \$30,009, to allow the FY2004-05 Operating Grant award that the Council approved in that amount for YASJSV on June 22, 2004, to be made to YANC with the requirement that the grant be used to support the provision of programs and services in San José. CEQA: Not a Project (Office of Cultural Affairs)**

Documents Filed: Memorandum from Deputy Director, Office of Cultural Affairs Jerry Allen, dated August 25, 2004, recommending adoption of the resolution.

Action: Resolution No. 72310, entitled: “A Resolution of the Council of the City of San José Approving a One Time Exemption from Certain Eligibility Requirements of the Operating Grants Arts Program for Young Audiences of Northern California, the Legal Successor of Young Audiences of San José and Silicon Valley, and Directing the City Manager to Negotiate and Execute a Grant Agreement in the Amount of \$30,009, with the Requirement that the Grant be Used to Support the Provision of Programs and Services in San José”, was adopted. (11-0).

- 2.6 (a) Approval of the proposed 2004-06 Spending Plan for the Local Law Enforcement Block Grant (LLEBG) Fund.**
- (b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the General Fund (Fund 001) and Local Law Enforcement Services Block Grant Fund (Fund 415) for FY 2004-05 to:**
- (1) Establish the LLEBG 2004-06 appropriation in the Local Law Enforcement Services Fund for the Police Department in the amount of \$349,494.**
 - (2) Increase the Earned Revenue by \$314,545.**
 - (3) Transfer \$34,949 from the General Fund Contingency Reserve to the Local Law Enforcement Services Block Grant Fund.**

CEQA: Not a Project. (Police/City Manager’s Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, and Police Chief Robert Davis, datd August 25, 2004, recommending approval of the 2004-06 Spending Plan, and adoption of the annual appropriation ordinance and annual funding sources resolution.

Action: The 2004-06 Spending Plan was approved, and Ordinance No. 27247, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Local Law Enforcement Block Grant Fund for the Local Law Enforcement Block Grant for 2004-2006; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72311, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Local Law Enforcement Block Grant Fund”, were adopted. (11-0).

2.7 Adoption of a resolution summarily vacating a portion of the Landscape Easement lying within the parcel located at Lot 232 Tract 8991, also known as 2398 Bentley Ridge Drive. CEQA: Exempt, PP03-12-370. Council District 8. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 25, 2005, recommending adoption of the resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72312, entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Portion of a Public Landscape Easement at 2398 Bentley Ridge Drive", was adopted. (11-0).

2.8 Report on bids and award of contract for the Old Oakland Road Habitat Mitigation Project Re-Bid to the low bidder, Ecological Concerns, Inc. in the amount of \$276,700, and approval of a contingency in the amount of \$14,000. CEQA: Mitigated Negative Declaration, PP 96-08-123. Council District 3. SNI: Spartan/Keyes. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated August 25, 2004, recommending award of the contract.

Action: The contract was approved. (11-0).

**2.9 (a) Acceptance of the staff report related to unforeseen soil conditions for the San Tomas Aquino/Saratoga Creek Trail Reach 6 Project.
(b) Approval of a first amendment to the agreement with A-N West, Inc., for consultant services for the San Tomas Aquino/Saratoga Creek Trail Reach 6 Project, increasing the total compensation by \$25,000 from \$350,000, for a total agreement amount of \$375,000.
CEQA: Mitigated Negative Declaration, and addenda thereto, PP03-03-084. Council District 1. Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 25, 2004, recommending acceptance of the Staff report, and approval of the agreement.

Action: The Staff report was accepted, and the first amendment to the agreement was approved. (11-0).

**2.10 Adoption of a resolution authorizing the City Manager to execute individual agreements and accept deeds from property owners (as detailed in the report) on Towers Lane who are ready to close escrows and have signed donation agreements for real property and temporary construction easements. CEQA: Exempt, PP02-03-046. Council District 7. SNI: West Evergreen. (Public Works)
(Rules Committee referral 9/8/04)**

2.10 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated September 9, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated September 14, 2004, transmitting correction of number of properties.

Action: Upon motion by Council Member Gregory, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72313, entitled: "A Resolution of the Council of the City of San José Delegating Authority to the City Manager to Negotiate and Execute: (1) Agreements with the Owners of Real Property on Towers Lane for the Donation of Property Rights Within Towers Land; and (2) A Joint Use Agreement with Pacific Gas and Electric to Relocate Utilities, Easements and Poles Within the Newly Created Right of Way on Towers Lane", was adopted. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

(a) May 2004 Proposed Operating and Capital Budget Study Sessions (Deferred from 9/7/04 – Item 3.1)

Documents Filed: The May 2004 Proposed Operating and Capital Budget Study Sessions.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the May 2004 Proposed Operating and Capital Budget Study Sessions, were approved. (11-0).

3.2 Report of the Rules Committee - Meeting of September 1, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Reports dated September 1, and 8, 2004.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review September 14, 2004 Draft Agenda

The Committee recommended approval of the September 14, 2004 City Council Agenda.

(a) Additions/Changes

The Committee recommended approval of three additions to the September 14, 2004 City Council Agenda.

3.2 Report of the Rules Committee - Meeting of September 1, 2004 Vice Mayor Dando, Chair

(b) City Council (Cont'd.)

(2) Add New Items to September 7, 2004 Amended Agenda

The Committee recommended approval of three additions to the September 7, 2004 Amended Agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated August 31, 2004, transmitting reports outstanding for September 7, 2004.

The Committee noted and filed the City Manager's Report stating there are three Staff reports outstanding for the September 1, 2004 Council Agenda.

(c) Legislative Update

(1) State

(a) AB 1878 (Chan) relating to motor scooters, operation and noise; SB 1694, SB 1695, SB 1696, SB 1697 (Torlakson), relating to driving under the influence

This item was reported during the September 7, 2004 City Council Meeting, Item 3.2c(1)(a).

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

(e) The Public Record - There were none.

(f) Appointment to Boards, Commissions and Committees - There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Report back on Secondary Units Outreach Efforts and Legislative Update. Attachment: Memorandum from Director of Housing Leslye Corsiglia, and Director of Planning, Building and Code Enforcement Stephen Haase, dated August 31, 2004, transmitting the Staff report.

The Committee accepted the report, with further direction to Staff: (a) Determine how many of the Top 10 Cities in California allow secondary units; (b) Update, as appropriate, the City's 1984 policy on secondary units. Note: Council may wish to restate findings of adverse impacts, particularly in the light of the progress San José has made in the production of affordable housing.

3.2 Report of the Rules Committee - Meeting of September 1, 2004 Vice Mayor Dando, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
- (2) Follow up report from Office of Economic Development on project impacts if the referral to expand the Small Business Development Commission is approved. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated August 31, 2004, transmitting the Staff report.

The Committee accepted the report, with Staff directed to coordinate the workload with "Driving a Strong Economy", and "Getting Families Back to Work" Committees and report back to the Rules Committee January 2005.

- (h) Oral communications - None were presented.
- (i) Adjournment - The meeting was adjourned at 2:43 p.m.

Report of the Rules Committee - Meeting of September 8, 2004 Vice Mayor Dando, Chair

- (c) Legislative Update
- (1) State
- (a) Approval of the 2004 League of California Cities Resolutions to be considered at the Conference in Long Beach, September 17-19, 2004. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated September 2, 2004, recommending approval of the resolutions.
- Resolution Amending Bylaws of the League of California Cities.
 - Resolution Relating to Encouraging Healthier Lifestyles for Children, Adults, Seniors in Cities Throughout California.

The Committee recommended support of the two resolutions.

- (d) Meeting Schedules
- (1) Approval of the Redevelopment Agency Budget Schedule. Memorandum from Mayor Gonzales, dated September 8, 2004, recommending approval of the Study Session and Public Hearing Review Calendar.

The Committee recommended approval of the Redevelopment Agency Budget Schedule.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Williams, and carried unanimously, the Rules Committee Reports, and the actions of September 1, and September 8, 2004, were accepted. (11-0).

3.4 Adoption of a resolution amending the Schedule of Fees and Charges to establish lobbyist registration fees and delinquency charges for late registrations and delinquent lobbyist reports. (City Clerk/City Attorney)

Documents Filed: Memorandum from City Clerk Lee Price, dated September 1, 2004, recommending adoption of the resolution.

Public Comment: William Garbett spoke in opposition to the resolution.

Action: Upon motion by Council Member Yeager, seconded by Council Member Williams, and carried unanimously, Resolution No. 72314 was adopted, as amended to take effect January 1, 2005, with Staff directed to return before January 1, 2005 with recommendation regarding fees for nonprofits. (11-0).

- 3.5 (a) Review of report regarding the personnel investigation related to the Converged Data Network and Telephony System for the New City Hall. (City Manager's Office)**
(Referred from 8/31/04 – Item 3.5)
- (b) Review and acceptance of report on Council investigations pursuant to Charter Section 416. (City Attorney's Office)**

Documents Filed: (1) Memorandum from Mayor Gonzales, Council Members Cortese and Chavez, dated September 14, 2004, recommending as depicted in "Action". (2) Memorandum from City Attorney Richard Doyle, dated September 10, 2004, transmitting a report to the Council of the Council's investigative powers pursuant to Charter Section 416. (3) Email from Council Member Reed, dated September 14, 2004, recommending Questions for the Independent Investigator: (a) What did Senior Deputy City Attorney Brian Doyle tell City Attorney Richard Doyle before June 22, 2004? (b) Did City Attorney Richard Doyle bring the matter to the attention of anyone in the Manager's or the Mayor's or Council's Offices? (c) If so, what did they say or do? (d) Why does Senior Deputy City Attorney Brian Doyle think someone in the City Manager's Office told Jose Obregon to proceed with releasing the RFP? (e) Who in the City Manager's Office and the City Attorney's Office received the email message about a vendor forwarded by Wandzia Grycz from Cisco on April 7, 2004 and what did they say or do in response? (City Manager's Investigation Summary Page 6 of 9) (f) Why did two Cisco employees lie during the City Auditor/City Attorney investigation? Questions for the City Auditor: (g) What standards should be used to determine when lawyers must take matter sup the chain of command? (h) What standards should be used to determine when other employees must take matters up the chain of command? Questions for the City Manager: (i) Do we have a flaw in our budget process that may allow us to over task and under budget a department without us knowing about it? (j) Should be have minutes or keep a recording of Council Closed Session meetings so we can go back and figure out what we did; and the Staff recommendation was approved.

City Manager Del Borgsdorf outlined the key points of the Investigation Summary. Director of Employee Relations Alex Gurza provided an overview of the Personnel Investigation.

3.5 (Cont'd.)

Discussion: Lengthy questions and debate ensued resulting in numerous directions to Staff, as specified below in “action”.

Public Comment: John Moore questioned whether or not it was necessary to start the bid process all over again in order to stay on time and save money. Ross Signorino asked why the Director of General Services did not perform due diligence, and suggested the Council may have put too much pressure on the Staff. William Garbett asserted disapproval of the process.

Motion: Council Member Cortese moved approval of the memorandum he cosigned with Mayor Gonzales and Council Member Chavez, the staff recommendation, and Council Member Reed’s questions for the Independent Investigator. Council Member Chavez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Mayor Gonzales, and Council Members Cortese and Chavez, dated September 14, 2004, was approved, with the following direction (1) The Independent External Investigator already on contract to the San José Elections Commission to: (a) Review the multiple internal investigations related to the purchasing of the converged network technology for the new City Hall to assess their completeness; (b) Address the question of whether there had been any inappropriate involvement by any member of the City Council, City Manager, and City Attorney or their offices related to this matter. (2) Direct that this independent review and investigation should be completed and reported back to the City Council within 30 days, and that the report and its findings and recommendations be considered at an open Public Hearing conducted by the City Council. Direct the City Clerk to negotiate and execute an agreement with the Elections Commission Investigator to conduct this work. (3) Direct the City Auditor to conduct a management audit, review and comment on the City Manager’s reforms, and make any additional recommendations about how better management controls could prevent future problems within 30 days. (4) Recommend that issues of management performance related to this matter be reviewed by the City Council as part of our regular performance evaluations of Council Appointees. (5) Ask the Independent Investigator to include additional questions provided by individual Council Members. (11-0).

3.6 Approval to continue to dedicate the public art funds designated from eligible Capital Improvement Projects (CIP) for the acquisition of works of art and that a cap not be imposed on large-scale CIP projects. CEQA: Not a Project. (Office of Cultural Affairs)

Documents Filed: (1) Memorandum from Mayor Gonzales and Council Member Williams, dated September 13, 2004, supporting the Staff memorandum. (2) Memorandum from City Attorney Richard Doyle, dated August 31, 2004, transmitting review of City Council Authority. (3) Memorandum from Deputy Director, Office of Cultural Affairs Jerry Allen, dated August 30, 2004, recommending the City continue to dedicate the public art funds designated from eligible CIP for acquisition of works of art and that a cap not be imposed on large scale CIP projects.

Motion: Council Member Williams moved approval of the Staff recommendation, and the memorandum he cosigned with Mayor Gonzales. Council Member Chavez seconded the motion.

Public Comment: Speaking in favor of the issue were Ted Johnson, Sharon Gustafson, Robert Milnes, San José State University, School of Art and Design, and Eugene Sakai, Ben Miyaji, Arts Commission.

Brief discussion ensued.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Mayor Gonzales and Council Member Williams, dated September 13, 2004, and the Staff recommendation, were approved. (11-0).

3.7 Adoption of a resolution authorizing the Director of General Services to execute an extension of the agreement with ComputerLand of Silicon Valley (“ComputerLand”) located in San José, CA through June 30, 2005, for citywide purchases of personal computers, peripherals, and software, in an amount not to exceed \$3,000,000 for FY 2004/2005. CEQA: Not a Project. (General Services) (Rules Committee referral 9/8/04)

Documents Filed: Memorandum from Deputy Director of General Services Anna Jatczak, dated September 7, 2004, recommending adoption of resolution.

Motion: Council Member Gregory moved approval of the Staff recommendation. Council Member Reed seconded the motion.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72315, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Extension of the Agreement with Computerland of Silicon Valley”, was adopted. (11-0).

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval for the affordability requirements for substantial rehabilitation loans made by the City of San José Housing Department be revised as follows:

- (a) The affordability requirements (i) for substantial rehabilitation loans currently in the Housing Department's portfolio, and (ii) for substantial rehabilitation loans the Housing Department makes in the future be revised as follows:
- (1) Cap the amount of equity share borrowers pay to the City at 50% of the gain in equity in the property.
 - (2) For the term of the affordability restriction, annually reduce the share of the equity increase borrowers must pay the City proportional to the length of the affordability restriction.
 - (3) Upon the sale of a home to an income-ineligible buyer, borrowers, at a minimum, must pay the City the loan principal plus 3% simple interest.
 - (4) The revisions will not impact borrowers who sell their home to an income-eligible household.
 - (5) The revisions will not impact borrowers who sell their home before five years of the loan term.

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated August 25, 2004, recommending as described above.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the substantial rehabilitation loan revisions were approved. (10-0-1. Absent: LeZotte.)

4.4 Reports on bids and award of contract for the Towers Lane Improvement Project (north of Aborn Road) to the low bidder, DeSilva Gates Construction, LP, in the amount of \$626,191, and approval of a 15 percent contingency in the amount of \$94,000. CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation) (Deferred from 8/31/04 – Item 4.3 and 9/7/04 – Item 4.3)

Documents Filed: None.

Action: Deferred to September 21, 2004.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Report on bids and award of contract for the South Bay Water Recycling (SBWR) - San Fernando Pipeline Project to the low bidder, Pacific Underground Construction, Inc., for the base bid in the amount of \$1,056,450, and approval of a contingency in the amount of \$158,000. CEQA: Resolution No. 64667, and addenda thereto, PP03-11-350. Council District 3. SNI: University. (Public Works/ Environmental Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated August 25, 2004, recommending award of contract to the low bidder. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Director of Environmental Services Carl Mosher, dated September 1, 2004, providing additional information.

Motion: Council Member Chavez moved approval of the Staff recommendation. Council Member Cortese seconded the motion.

Public Comment: William Garbett spoke in opposition to the bid award.

Action: On a call for the question, the motion carried unanimously, and the contract was approved, with Staff directed to continue with updates to Council on the progress of the program. (9-0-2. Absent: Dando, LeZotte.)

- 7.2 (a) Accept the staff report regarding Norcal Waste Systems of San José, Inc's request for an amendment to the Recycle Plus Integrated Waste Management Services agreement. (City Manager's Office)**
- (b) Adoption of a resolution authorizing the City Manager and City Attorney to negotiate and authorizing the City Manager to execute an amendment to the agreement between the City and Norcal Waste Systems of San José, Inc. for Recycle Plus Integrated Waste Management Services to include payment for additional labor costs, contribution to a recycle characterization study, an e-scrap collection and processing program, and bins for 10 additional neighborhood cleanups. (Mayor's Office)**

(Deferred from 9/7/04 – Item 7.1)

Documents Filed: None.

Action: Deferred to September 21, 2004.

PUBLIC SAFETY SERVICES

9.1 Review and acceptance of the Independent Police Auditor's (IPA) response to the 2003-2004 Santa Clara County Civil Grand Jury's report entitled, "Inquiry into the City of San José Office of the Independent Police Auditor." CEQA: Not a Project. (Independent Police Auditor)

Documents Filed: Memorandum from Independent Police Auditor Teresa Guerrero-Daley, dated September 2, 2004, transmitting the IPA's response

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, the Accepted. (10-0-1. Absent: Dando.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9527	Northwest corner of Cunningham Ave & Cunningham Court	8	Bao Pham Jordan Pham	D. & Ky	6 lots SFD	Approve

Action: Dropped.

OPEN FORUM

- (1) James Rowen asked that Council work with the Airport Commission to keep the San José State University Aeronautics Program at the Airport.
- (2) Marc Boyd presented his views on the closure of San José Medical Center.
- (3) Deborah Grant spoke of violent crimes and military issues.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Danith Harkness, mother of Kip Harkness, Redevelopment Agency; in memory of Tony Santos, lifelong resident of Alviso, serving as it's last Mayor; and in memory of James McEntee, long-time valley human rights leader who championed for the homeless and the poor.

The Council of the City of San José was adjourned at 5:12 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/09/14/04min